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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/579,918	05/26/2000	Philip C M Leung	1126.001US1	8219

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
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3628

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

09/579,918

Applicant(s)

LEUNG, PHILIP C M

Examiner

Akiba K. Robinson-Boyce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10, 12-22 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-22, and 25-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 11/30/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. Due to communications filed 11/30/06, the following is a final office action.
Claims 1, 12, 16, 25, and 26 are amended. Claims 11, 23 and 24 are cancelled.
Claims 1-10, 12-22, and 25-28 are pending in this application and have been examined on the merits. Claims 1-10, 12-22, and 25-28 are rejected as follows.

Election of Species

2. Applicant asserts that each of species A1-A6 are patentably distinct from each other. Applicant also asserts that each of species B I-B6 are also patentably distinct from each other.

Because Applicant has not provided any explanation as to why they are patentably distinct, the Examiner maintains his position that the species represented by the figures noted above are patentably distinct.

Claim Rejections - 35 USC §112 2" a Paragraph

3. The following is a quotation of the 2nd paragraph of 35 U.S.C. § 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 16-22, 25-28 are rejected under 35 U.S.C. §112, 2"d paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 16 and 26, it is unclear what is the "access restriction system."

In claims 25 and 26, Applicant appears to be stating the server twice. The corresponding structure of the "means for transferring information..." is server 108. Because Applicant's recites the server twice, it is unclear if anticipation requires one server or two servers.

Claim Rejections - 35 USC §103

5. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 1-10, 12-22, and 25-28 are rejected under 35 U.S.C. §103(a) as being unpatentable over Keillor et. al. (U.S. 5,917,433)("Keillor") in view of Klanke (U.S. 6,313,791) and Paradox for Window's User's Guide. In this rejection, Paradox for Windows User's guide is simply to show an exemplary relational database systems as disclosed in Keillor.

As per claim 1, Keillor discloses a computer system having a trailer tracking program which receives information regarding the trailer and stores the information in a record, (col. 3, lines 45-54, asset monitor transmits information, such as status of the container/trailer to the central station, col. 7, lines 44-54, shows that central station

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stores data relating to sensory signals (which detect status), and can therefore monitor sensed conditions of the container/trailer);

...wherein each terminal includes means for receiving trailers to be loaded on rail cars, (Col. 1, lines 45-49, shows an example where the driver must park the tractor and telephone the central station or dispatcher in order to report the present location of the tractor-trailer and obtain updated delivery information, in this case, it is inherent to have a plurality of terminals for each tractor to be able to pull over and make a call, as there are in truck stops. In addition, it is taught that the a tractor can tow a number of trailers, and each trailer can include an asset monitor, which independently communicates with the central station in Col. 8 lines 57-61, and in this case, each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by way of distinct communication links with the central station, w/Col. 1, lines 16-20, shows that it is common for freight to be loaded into rail cars and shipped in the container industry), and wherein each terminal includes a terminal management system communicatively connected to the computer system, wherein the terminal management system pulls up the record corresponding to the trailer to be transported when the trailer arrives at the terminal and modifies the record to reflect the trailer's transportation status, (col. 3, lines 45-54, asset monitor transmits information, such as status of the container/trailer to the central station, in this case the asset monitor represents the terminal management system, and the central station represents the computer system, w/ col. 10, line 65-Col. 11, line 10, asset monitor transmits update to central processor

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about sensed data, where col. 7, lines 44-54, shows that central station stores data relating to sensory signals).

Keillor et does not necessarily disclose a plurality of terminals, but does disclose that the a tractor can tow a number of trailers, and each trailer can include an asset monitor, which independently communicates with the central station in Col. 8 lines 57-61, and in this case, each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by way of distinct communication links with the central station.

However, Klanke discloses:

A plurality of terminals, (Col. 7, lines 36-45, shows that a route goes through multiple stops, which allows storage of route information, in this case the stops represent the terminals). Klanke discloses this limitation in an analogous art for the purpose of showing that during the stops along the route, information about the transport is stored.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have a plurality of terminals with the motivation of having means to input and store information.

As per claim 3, Keillor et al discloses:

Wherein the computer system includes a reservation system or reserving a slot on a train...(Col. 1, lines 16-20, shows that it is common for freight to be loaded into rail cars and shipped in the container industry).

As per claim 4, Keillor et al discloses:

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Wherein the terminal management system includes a trailer tracking system...

(col. 7, lines 44-54, shows that central station stores data relating to sensory signals (which detect status), and can therefore monitor sensed conditions of the container/trailer).

As per claim 5, Keillor et al discloses:

Wherein the trailer tracking system includes a terminal interface...(shown that the a tractor can tow a number of trailers, and each trailer can include an asset monitor, which independently communicates with the central station in Col. 8 lines 57-61, and in this case, each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by way of distinct communication links with the central station).

As per claims 6-8, 18-22, 27, Keillor et al discloses:

Wherein the computer system includes a network.../Wherein the trailer tracking system comprises a portable computer.../wherein the terminal management system includes a trailer tracking device, wherein the trailer tracking device is a handheld computer.../wherein the access restriction system comprises a hand held computer.../wherein the computer system includes a web server...connected through a firewall...(Col. 8, lines 19-38, chain of communication links, w/ Col. 9, lines 15-19, cellular communications technology, representing wireless technology, which includes portable wireless computers).

As per claims 9/14/15, the following is inherent with Keillor since Keillor discloses wireless networks in col. 9, lines 15-19, and access restriction is standard in wireless networks so that entities not included in the network can not have access to services:

Wherein the terminal management system includes an access restriction system/ wherein the access restriction system comprises an access controller...

As per claims 12, 16, 25, 26, Keillor et al discloses:

A network/a network interface..., (Col. 8, lines 19-38, chain of communication links);

A computer system..., (col. 3, lines 45-54, asset monitor transmits information, such as status of the container/trailer to the central station, col. 7, lines 44-54, shows that central station stores data relating to sensory signals (which detect status), and can therefore monitor sensed conditions of the container/trailer);

A first terminal management system.../A second terminal management system.../a first access restriction system.../a second access restriction system.../a terminal management computer... (it is taught that the a tractor can tow a number of trailers, and each trailer can include an asset monitor, which independently communicates with the central station in Col. 8 lines 57-61, and in this case, each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by way of distinct communication links with the central station)

Wherein trailers enter and exit each terminal...(Col. 1, lines 45-49, shows an example where the driver must park the tractor and telephone the central station or dispatcher in order to report the present location of the tractor-trailer and obtain updated

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delivery information, in this case, it is inherent to have a plurality of terminals for each tractor to be able to pull over and make a call, as there are in truck stops);

Wherein each terminal management system tracks arrivals and departures...(col. 3, lines 45-54, asset monitor transmits information, such as status of the container/trailer to the central station, in this case the asset monitor represents the terminal management system, and the central station represents the computer system, w/ col. 10, line 65-Col. 11, line 10, asset monitor transmits update to central processor about sensed data, where col. 7, lines 44-54, shows that central station stores data relating to sensory signals).

means for transferring information...means for receiving information...(col. 4, lines 23-32, receiver, transmit);

First and second access restriction systems/am access restriction system are inherent with Keillor since Keillor discloses wireless networks in col. 9, lines 15-19, and access restriction is standard in wireless networks so that entities not included in the network can not have access to services;

Keillor et does not necessarily disclose a plurality of terminals, but does disclose that the a tractor can tow a number of trailers, and each trailer can include an asset monitor, which independently communicates with the central station in Col. 8 lines 57-61, and in this case, each asset monitor for the trailer would serve as an independent terminal since the asset monitor receives each trailer by way of distinct communication links with the central station.

However, Klanke discloses:

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A plurality of terminals, (Col. 7, lines 36-45, shows that a route goes through multiple stops, which allows storage of route information, in this case the stops represent the terminals). Klanke discloses this limitation in an analogous art for the purpose of showing that during the stops along the route, information about the transport is stored.

It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to have a plurality of terminals with the motivation of having means to input and store information.

As per claims 13, 17, Keillor et al discloses:

Wherein the network comprises a token ring network, (Col. 8, lines 19-38, chain of communication links);

As per claims 10, 28, Keillor et does not necessarily disclose a gate restriction, but does disclose a wireless communication in col. 9, lines 15-19, where it is inherent to have access restriction since access restriction is standard in wireless networks so that entities not included in the network can not have access to services.

However, Klanke disclose the gate restriction, (col. 5, lines 27-30, fence). Klanke discloses this limitation in analogous art for the purpose of showing that the fence incorporates permitted and forbidden areas.

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Keillor as taught by Klanke to include Klanke's access restriction system.

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7. Claim 2 is alternatively rejected under 35 U.S.C. §103(a) as being unpatentable over Keillor et. al. (U.S. 5,917,433), and further in view of Klanke (US 6,314,791), and further in view of Nijenhuis (PCT/NL98/00128).

As per claim 2, Keillor et al does not specifically disclose the following, but does disclose a system for monitoring and tracking assets such as containers, trailers, etc. as shown in Col. 2, lines 60-65.

However, Nijenhuis discloses:

Wherein each terminal includes a track and loading pad..., (terminal (1) with a loading pad (Figure 1)). Nijenhuis discloses this limitation in an analogous art for the purpose of showing a that loading pads are commonly used in the container transport/monitoring art.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Keillor as taught by Nijenhuis to include a terminal with a loading pad. Such a modification would have provided a system where the transfer time of trailers to rails was reduced.

Finally, examiner concludes that Applicant has decided not to be his own lexicographer by indicating and defining claim limitations to have meanings other than their ordinary and accustomed meanings. To support this position, the Examiner relies on the following factual findings. First and as noted in the previous Office Action, the Examiner has carefully reviewed the specification and prosecution history and can not locate any lexicographic definition(s). Second, and in spite of Applicant's statement in his Remarks, the Examiner finds that not only has Applicant not pointed to definitional

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statements in his specification or prosecution history, Applicant has also not pointed to a term or terms in a claim with which to draw in those statements. Third and also as noted in the previous Office Action (and except for his discussion of claim 5), Applicant has not attempted to 'clearly set forth' or 'clearly redefine' a particular claim term. *Bell Atlantic Network Services Inc. v. Covad Communications Group Inc.*, 262 F.3d 1258, 1268, 59 USPQ2d 1865, 1870 (Fed. Cir. 2001). Finally, Applicant's attempt at lexicography (including his discussion of claim 5) fails to define his terms with reasonable clarity, deliberateness, and precision. See e.g. *Anchor Wall Systems, Inc. v. Rockwood Retaining Walls, Inc.*, 67 USPQ2d 1865, 1872 (Fed Cir. 2003) ("Contrary to the district court's claim construction, the written description does not describe 'with reasonable clarity, deliberateness, See the Examiner's previous Office Action mailed September 10, 2003, Paper No. 8, Paragraph No. 14. See Applicant's Remarks, Paper No. 10, Page 9, ¶12, "Applicant asserts that he had every intention of being his own lexicographer when drafting the specification and initial set of claims." "In order to overcome this heavy presumption in favor of the ordinary meaning of claim language, it is clear that a party wishing to use statements in the written description to confine or otherwise affect a patent's scope must, at the very least, point to a term or terms in the claim with which to draw in those statements. [Emphasis added.]" *Johnson Worldwide Assocs. v. Zebco Corp.*, 175 F.3d 985,989, 50 USPQ2d 1607, 1610 (Fed. Cir. 1999) and precision," citing *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1874 (Fed. Cir. 1994).

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Accordingly and for due process purposes, the Examiner gives notice that for the remainder of the examination process (and unless expressly noted otherwise by the Examiner), the heavy presumption in favor of the ordinary and accustomed meaning is not overcome; the claims therefore continue to be interpreted with their "broadest reasonable interpretation" In re Morris, 127 F.3d 1048, 1054, 44 USPQ2d 1023, 1027 (Fed. Cir. 1997).⁵ The Examiner now relies heavily and extensively on this interpretation.⁶ Unless expressly noted otherwise by the Examiner, the preceding claim interpretation principles in this paragraph apply to all examined claims currently pending. See also In re Thrift, 298 F.3d 1357, 1364, 63 USPQ2d 2002, 2006 (Fed. Cir. 2002) ("Although an applicant may be his own lexicographer, nothing in the specification defines the phrase 'speech user agent' differently from its ordinary meaning.") (citations omitted); Abbott Labs. v. Baxter Pharm. Prods., 67 USPQ2d 1191, 1194 (Fed. Cir. 2003) ("Because the patentee did not deviate from the accustomed meaning of the disputed claim term, the term 'effective amount' is construed in view of its ordinary and customary meaning."); Northern Telecom Ltd. v. Samsung Elecs. Co., 215 F.3d 1281, 1295, 55 USPQ2d 1065, 1075 (Fed. Cir. 2000) ("Vagueness and inference cannot overcome an ordinary meaning of a claim term"); See also In re Bass, 314 F.3d 575, 577, 65 USPQ2d 1156, 1158 (Fed. Cir. 2002) ("In examining a patent claim, the PTO must apply the broadest reasonable meaning to the claim language, taking into account any definitions presented in the specification. Words in a claim are to be given their ordinary and accustomed meaning unless the inventor chose to be his own lexicographer in the specification") (citations omitted); In re Etter, 756 F.2d 852, 858,

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225 USPQ 1, 5 (Fed. Cir. 1985) (en banc); and MPEP §§ 2111 and 2111.01.

6 See 37 C.F.R. §1.104(c)(3) which states in part: "the examiner may rely upon admissions by applicant., as to any matter affecting patentability

[Emphasis added.]"

Response to Arguments

8. Applicant's arguments filed 11/30/06 have been fully considered but they are not persuasive.

As for the Election of Species Restriction Requirement, the applicant argues that the examiner stated that none of the species previously labeled as patentably distinct were patentably distinct and will treat this as a withdrawal of the species-based restriction requirement. However, the passage the applicant relates to was a typo, and the Election of species restriction requirement is therefore maintained.

As for the Applicant's Lexicographer argument, the applicant still has not pointed to definitional statements in his specification or prosecution history, Applicant still has not pointed to a term or terms in a claim with which to draw in those statements, or has not attempted to 'clearly set forth' or 'clearly redefine' a particular claim term.

As for the 112 rejection of claims 16-22, and 25-28, the applicant still needs to further explain what is being restricted through the access restriction system. It is not clear as to whether the trailer or the terminal is being restricted. Applicant also needs to specify where the transferring of information is being transferred to. Therefore, the 112 rejection of claims 16-22, and 25-28 is maintained by the examiner.

As for the 103 rejection of claims 1-10, 12-22 and 25-28, applicant argues that there is no access restriction system for the rejection of claims 1-8, 12, 13, and 25-28. However, as disclosed above in the rejection, the access restriction system is inherent with Keillor since Keillor discloses wireless networks in col. 9, lines 15-19, and access restriction is standard in wireless networks so that entities not included in the network can not have access to services. In addition, applicant argues that examiner fails to analyze the differences between Keillor and claims 1-8, 12, 13 and 25-28 as required by statute and by the MPEP. However, examiner has re-written the rejection in a way to analyze the differences between the claims and the references, however without actually changing the basis for the rejection.

As per claim 1, applicant also argues that examiner has failed to show the equipping of each trucking terminal with a terminal management system, or of equipping the terminal management system such that it "pulls up a record corresponding to the trailer being transported when the trailer arrives at the terminal and modifies the record to reflect the trailer's transportation status". However, as described above in the rejection, in col. 3, lines 45-54 of Keillor et. al, the asset monitor transmits information, such as status of the container/trailer to the central station, in this case the asset monitor represents the terminal management system, and the central station represents the computer system. Also, in col. 10, line 65-Col. 11, line 10, of Keillor et. Al, the asset monitor transmits updates to the central processor about sensed data, where the central station stores data relating to sensory signals as shown in col. 7, lines 44-54).

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As per claims 2-8, these claims are dependent on claim 1 and therefore are rejected for the same reasons.

As per claims 9 and 10, the applicant argues that examiner fails to show a teaching or suggestion of a terminal management system. However, the terminal management system is described by Keillor as shown in the preceding paragraph. Applicant also argues that the examiner fails to show a teaching or suggestion in Klanke that would lead one to adapt the electronic fence of Klanke to the access restriction system described and claimed by Applicant, and argues that there is no motivation to combine Klanke with Keillor. However, these two references are combinable since they both disclose systems for monitoring the location of a transport, and are therefore in the same field of endeavor.

As per claims 12 and 13, applicant argues these claims for similar reasons as those of claims 9 and 10, and claims 12 and 13 are therefore still rejected for the same reasons.

As per claims 14 and 22, applicant argues these claims for similar reasons as those of claims 9 and 10, and claims 14 and 22 are therefore still rejected for the same reasons.

As per claims 25-28, applicant argues these claims for similar reasons as those of claim 1, and claims 25-28 are therefore still rejected for the same reasons.

As per claim 2, applicant argues these claims for similar reasons as those of claims 9 and 10, and claim 2 is therefore still rejected for the same reasons. In addition applicant argues that the loading platform described in Nijenhuis is not the loading pad

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described by claim 2 since it does not cross "the track to facilitate rapid loading and unloading of trailers from the train". However, the loading platform of Nijenhuis was cited to show that the purpose of showing a that loading platforms/pads are commonly used in the container transport/monitoring art. The feature of crossing cross "the track to facilitate rapid loading and unloading of trailers from the train" is inherent with all loading pads in the transport art since this is specifically what they are used for.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 571-272-6734. The examiner can normally be reached on Monday-Friday 9am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hayes can be reached on 571-272-6708. The fax phone numbers for


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the organization where this application or proceeding is assigned are 703-746-7238

[After final communications, labeled "Box AF"], 703-746-7239 [Official Communications],

and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A handwritten signature in black ink, appearing to read "A. R. B.", with a stylized, cursive flourish extending to the right.

A. R. B.

March 20, 2007